



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

IDEM
OFFICE OF
WATER QUALITY

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REPLY TO THE ATTENTION OF:

WN-16J

CERTIFIED MAIL 7009 1680 0000 7635 8750
RETURN RECEIPT REQUESTED

C. A. Burggraf, President
Peabody Midwest Mining, LLC
c/o Corporation Service Company
Registered Agent
251 East Ohio Street, Suite 500
Indianapolis, Indiana 46204

Re: Request for Information Pursuant to Section 308 of the Clean Water Act, 33 U.S.C.
§ 1318, Regarding Peabody Midwest Mining, LLC - Bear Run Mine, Indiana
Docket No. V-W-12-308-09

Dear Mr. Burggraf:

This letter concerns discharges of pollutants into waters of the United States associated with the Bear Run Mine, operated by Peabody Midwest Mining, LLC, located in southwestern Indiana.

This letter and the enclosures are a request for information issued pursuant to Section 308(a) of the Clean Water Act ("CWA" or "the Act"), 33 U.S.C. § 1318(a). Section 308 of the Act authorizes the U.S. Environmental Protection Agency to require those subject to the Act to furnish information, conduct monitoring, sample effluents, and make reports as may be necessary to carry out the objectives of the Act. Enclosure 1, which is hereby made part of this letter, details the information Peabody Midwest Mining, LLC ("Peabody" or "you") must provide to EPA. Please submit your written responses in accordance with the instructions in section I of the Information Request, which provides response deadlines and the address where information should be submitted.

This request for information requires Peabody to, among other things, conduct biological, physical habitat and water quality monitoring and sampling in order to assess the impacts of discharges from the Bear Run Mine to waters of the United States, in furtherance of the objectives of the Act. EPA encourages Peabody to consult with EPA on any issues and questions regarding the development of the requested monitoring and sampling plans. Please provide a signed written confirmation of your intention to comply with this request, via fax or email attachment (pdf), to Janet Pellegrini, National Pollutant Discharge Elimination System Programs Branch, at the address provided in Enclosure 1, within five business days of receipt of this Information Request.

CJB 000011

Your responses to this request must be accompanied by a certificate that is signed and dated by you or the person who is authorized by you to respond to the request. The certification must state that the response is complete and contains all information and documentation available to you pursuant to the request. Enclosure 2, which is hereby made part of this letter, provides a Statement of Certification for this purpose.

Failure to respond fully and truthfully to this information request may result in enforcement proceedings under Section 309 of the Act, 33 U.S.C. § 1319, which could result in the judicial imposition of civil or criminal penalties or the administrative imposition of civil penalties. In addition, there is potential criminal liability for the falsification of any response to the requested information.

Although the information requested must be submitted to EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, EPA may make the information available to the public without further notice to you (see Enclosure 3).

Enclosed is a document entitled *U.S. EPA Small Business Resources-Information Sheet* to assist you in understanding the compliance assistance resources and tools available to you (see Enclosure 4). Any decision to seek compliance assistance at this time, however, does not relieve you of your obligation to EPA nor does it create any new rights or defenses, and will not affect any EPA decision to pursue enforcement action.

If you have questions regarding this information request, please contact Janet Pellegrini, at (312) 886-4298, or have your legal counsel contact Kasey Barton, Assistant Regional Counsel, at (312) 886-7163.

Sincerely,



for Tinka G. Hyde
Director, Water Division

Enclosures

cc: P. Higginbotham, IDEM
John W. Watson, Esq.

CJB 000012